

FILED

SEP 18 2003

COMMISSION

ARIZONA

DISCIPLINARY COMMISSION OF THE
SUPREME COURT OF ARIZONA

BY *W. [Signature]*

Nos. 00-1635, 00-2128, 00-2212,
00-2286, 00-2491, 01-1001

DISCIPLINARY COMMISSION REPORT

RESPONDENT.

Prior to oral argument the parties filed a Request for Protective Order asking that oral argument be closed to the public and that the transcript be sealed. The parties' Request was granted and oral argument was closed to the public. The Commission will enter a Protective Order upon filing of the transcript.

¹ The Commission notes that further investigation and discussion of restitution in the Joint Memorandum and would have been helpful to the Commission.

Decision

The nine members of the Commission unanimously recommend accepting and incorporating by reference the Agreement and Joint Memorandum providing for a ninety-day suspension,² one year of probation upon reinstatement, and costs. The terms³ of probation are as follows:

- 1) Should Respondent return to private practice within one year of the entry of the final Judgment and Order, Respondent shall submit to an audit of his practice by the Director(s) of LOMAP and MAP. The recommendations of the Director(s) shall then be incorporated as additional terms of probation ordered pursuant to the Agreement.
- 2) In the event Respondent fails to comply with any of the foregoing terms and information thereof is received by the State Bar, bar counsel shall file a Notice of Non-Compliance with the Disciplinary Commission. The Disciplinary Commission may refer the matter to a hearing officer to conduct a hearing at the earliest possible date, but in no event later than thirty days following receipt of said notice. If the matter is referred to a hearing officer, the hearing officer shall determine whether the terms of probation have been breached, and if so, to recommend appropriate action and response to such breach.
- 3) If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

RESPECTFULLY SUBMITTED this 18th day of September 2003.



Jessica G. Funkhouser, Chair
Disciplinary Commission

² Although the misconduct in this matter may have warranted a lengthier suspension, the Commission gives considerable weight to the significant mitigation and evidence of extensive rehabilitation.

³ The Commission notes that the standard compliance language contained in the Agreement inadvertently states that a hearing will be conducted "in no event less than thirty (30) days" and should read "in no event later than thirty (30) days." See Agreement, p.19 item 4.

Original filed with the Disciplinary Clerk
this 10th day of September 2003.

Copy of the foregoing mailed
this 10th day of September 2003 to:

John M. Neis
Hearing Officer 8V
177 N. Church St., Suite 1015
Tucson, AZ 85701-1128

Patrick J. Geare
Respondent
1721 W. Cochran Street
Tucson, AZ 85746

Copy of the foregoing hand-delivered
this 10th day of September 2003 to:

Loren J. Braud
Deputy Chief Bar Counsel
State Bar of Arizona
111 West Monroe, Suite 1800
Phoenix, AZ 85003-1742

By K. Weigand

/kdl